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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,618	04/10/2004	Marco Grethel	GS 0669 A US	8953
20676	7590	08/25/2005	EXAMINER	
ALFRED J MANGELS 4729 CORNELL ROAD CINCINNATI, OH 452412433			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,618

Applicant(s)

GRETHEL, MARCO

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 2-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the applicant's amendment filed on May 25, 2005.

Claims 1 and 12 have been amended. Thus, claims 1-13 are pending in this application.

Applicant's cooperation in correcting the informalities in the drawing and specification are appreciated. However, a few minor informalities contain in claims 11, 12 and 13.

The amendments and arguments presented by the applicant have been duly noted. In view of such, the previous rejections in the first Office Action have been withdrawn. However, an updated search and further review of the prior art of record, has prompted the new non-final rejections presented below.

Drawings

1. Applicants are required to shade the spacer element (20, 21, 22, 23) with the shading scheme with represents a metal, plastic, resilient (see MPEP §608.02).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by White (Patent Number 4,253,808).

Regarding claims 1 and 10-13, as shown in Fig. 1, White discloses a fluid delivery device with a housing including at least one receiving chamber, and a rotatable displacement unit (26,

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32) arranged within the supply chamber, whereby the displacement unit serves to supply a medium to at least one pressure chamber provided within the housing, said fluid delivery device comprising: a pressure plate (35) positioned between the pressure chamber (not numbered; however, clearly seen in Fig. 1) and the housing (10, 11), wherein the pressure plate (35) is uncoupled from the housing (10, 11) by at least one spacer element (55, 56) that is arranged between the pressure plate and the housing; the displacement unit includes a first gear (26, 32) that is rotatably received within the housing (10, 11) and that cooperates with a second gear (26, 32) that is rotatably received within the housing; the at least one spacer element (55, 56) being made from metal or resilient or elastomeric/plastic material. Note that in claim 1, the recitation "A fluid delivery device with a housing including at least one receiving chamber, and a rotatable displacement unit arranged within the receiving chamber....at least one pressure chamber provided within the housing" is a preamble. A preamble to a claim is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self contained description of the structure not depending for completeness upon the introductory clause, clearly the claims of record do not reply on the introductory clause for completeness. See *Kropa v. Robie*, *supra* at 480. See also *Ex parte Mott*, 190 USPQ 311, 313 (PTO Bd. of App. 1975).

Allowable Subject Matter

3. Claims 2-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of one patents: reamer et al. (U.S. Patent Number 3,146,459) discloses a state of the art.

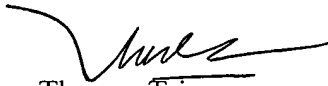
Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm. The new telephone number is 571-272-4868 that will become effective after November 22, 2004.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The new telephone number is 571-272-4859 that will become effective after November 22, 2004. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT
August 22, 2005


Theresa Trieu
Primary Examiner
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